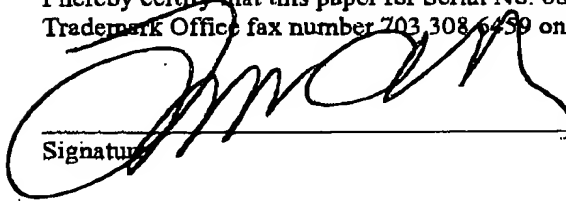


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Docket No.: 0190 US/P

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper for Serial No. 08/930,735 is being facsimile transmitted to the Patent and Trademark Office fax number 703.308.6459 on the date shown below.



Signature

June 7, 2002
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Angelika Semsch et al.
Applic. No. : 08/930,735
Filed : September 29, 1997
Title : Device for Preventing or Reducing Tipping of the Head
Attention : Richard Cole, PCT Legal Examiner

REQUEST FOR DECISION ON
APPLICANTS' REQUEST FOR RESCINDING THE NOTICE OF ABANDONMENT

Hon. Commissioner of Patents and Trademarks,
Washington, D. C. 20231

Sir:

This request is submitted by applicants for the following reasons:

- The above-identified application became abandoned on November 23, 1998. A copy of the *Communication and Notification of Abandonment* is enclosed herewith.
- Applicants responded to the aforesaid notification by filing a *Request to Rescind Notification of Abandonment and Reinstatement of Application* by facsimile on December 1, 1998. A copy of applicants' response is also enclosed herewith.
- Applicants filed a *Status Letter* on December 11, 2000 inquiring about the status of the application, a copy of which is enclosed.

In the absence of any Office communication since November 23, 1998 in the above-identified application, applicants respectfully request that an Office Action be issued so that prosecution of the application may continue.

Respectfully submitted,


For Applicants

LAURENCE A. GREENBERG
REG. NO. 29,308

Date: June 7, 2002

Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101
/bb

Docket No.: 0190 US/P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant Angelika Semsch, Elisabeth Schneider
Appl. No. 08/930,735
Filed September 29, 1997
Title Device for Preventing or Reducing Tipping of the Head

STATUS LETTER

Hon. Commissioner of Patents and Trademarks,
Washington, D.C. 20231

Sir:

It is respectfully requested that this Status Letter be returned to:

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101

with an indication as to when an action may be expected.

Respectfully submitted,



For Applicant

Date: December 11, 2000

/sc

Docket No.: 0190 US/P

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper for Serial No. 08/930,735 is being facsimile transmitted to the Patent and Trademark Office fax number (703) 308-6459 on the date shown below.

WERNER H. STEMER


Signature

Dec. 1, 1998
Date

UNITED STATES IN THE PATENT AND TRADEMARK OFFICE

Applicant : Angelika Semsch, Elisabeth Schneider
PCT No. : PCT/DE97/00187
Appl. No. : 08/930,735
Filed : September 29, 1997
Title : Device for Preventing or Reducing Tipping
of the Head

REQUEST TO RESCIND NOTIFICATION OF ABANDONMENT AND
REINSTATEMENT OF APPLICATION

Hon. Commissioner of Patents and Trademarks,
Washington, D. C. 20231

S i r :

This is in response to a Communication and Notification of Abandonment in the above-identified application, mailed to counsel's office on November 23, 1998.

The communication states that the application is abandoned as of midnight on Monday, September 29, 1997 for two reasons. Firstly, the application was allegedly filed on September 30, and secondly the small entity amount of the filing fee was allegedly not supported by a properly executed small entity

) declaration. The conclusions reached by the PCT Legal Office are incorrect and should be rescinded.

Firstly, the application was indeed filed on Monday, September 29, 1997. Enclosed herewith is a copy of an Express Mail label which shows that the application was deposited at the United States Post Office at 5 o'clock on September 29, 1997. The application papers were accompanied by a verified certification of Express Mail mailing date, which was executed on September 29, 1997. The person executing the Express Mail certificate was the same person who handed the application papers to the Post Office employee on September 29, 1997.


Secondly, when counsel received a Notification of Missing Requirements, form PCT/DO/EO/905, which was mailed from the Patent Office on December 10, 1997, counsel relied on the statement contained in the Notification that the large entity fee would be charged to counsel's deposit account. The deposit account number had been listed in the application papers. Accordingly, there was reliance on an official notification from the Patent Office and that reliance was proper. On the other hand, there was no reason to charge the additional fee to counsel's deposit account, because counsel, in response to the notification and within the time period of one month provided in the Notification, filed a properly executed small entity declaration. The small entity declaration was filed together with the properly executed declaration and a cover letter which was submitted on January 16, 1998. The filing bore a mailing certificate under 37 C.F.R. 1.8 dated January 12, 1998.

) Accordingly, it is shown that the conclusions reached by the PCT Legal Examiner and the Paralegal Specialist were in error.

The application should be returned to regular pending status and the Notification of Abandonment should be rescinded.

Should any questions remain, the PCT Legal Office is requested to telephone counsel so that any questions may be promptly resolved. In light of the relative urgency of this application, the Office is respectfully urged to immediately notify counsel of the rescission of the holding of abandonment and of the proper reinstatement of this application to pending status.

Respectfully submitted,


For Applicant(s)

WERNER H. STEMER
REG. NO. 34,956

Date: December 1, 1998

Lerner and Greenberg, P.A.
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Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101

WHS/djp


**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

23 NOV 1998

Laurence A. Greenberg
LERNER AND GREENBERG, P.A.
P.O. Box 2480
Hollywood, Florida 33022-2480

In re Application of
Angelika SEMSCH, et al.
Serial No.: 08/930,735
PCT No.: PCT/DE97/00187
Int. Filing Date: 26 January 1997
Priority Date: 27 January 1996
For: DEVICE FOR PREVENTING OR
REDUCING TIPPING OF THE HEAD

COMMUNICATION
AND NOTIFICATION OF
ABANDONMENT

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 26 January 1997, applicants filed international application PCT/DE97/00187, which claimed priority of an earlier German application filed 27 January 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 October 1997. Accordingly, the twenty month period for paying the basic national fee to enter the national stage in the United States expired at midnight on Monday 29 September 1997.

On 30 September 1997, applicants filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371. Filed with the Transmittal Letter was, inter alia, an English translation of the description and claims as required by 35 U.S.C. 371(c)(2), an unsigned declaration of the inventors and a check in the amount of \$520.00 to cover the basic national fee for a small entity. No Verified Statement Claiming Small Entity Status was submitted.

Serial No. 08/930,735

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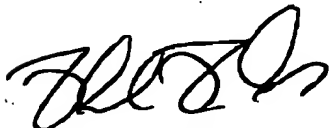
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On 10 December 1997, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicants that the oath or declaration of the inventors was unsigned and that "NO SMALL ENTITY SUBMITTED. LARGE FEE WILL BE CHARGED TO ACCT".

CONCLUSION

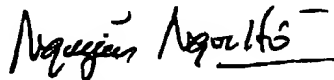
A review of the application file reveals that applicants failed to enter the national stage in the United States by paying the full basic national fee as required under 35 U.S.C. 371(c)(1) by the expiration of 20 months from the priority date of 27 January 1996, which period expires at midnight on Monday 29 September 1997. Additionally, the papers filed 30 September 1997 did not include a Small Entity Statement or an authorization to charge additional fees, therefore, the application would be held abandoned even if it was timely filed. For the above-noted reasons, the Notification of Missing Requirements of 10 December 1997 was mailed in error and is hereby VACATED. International application PCT/DE97/00187 is ABANDONED as to the national stage in the United States as of midnight on 29 September 1997.

The application is being returned to the DO/EO/US for disposition as an abandoned file.



Richard Cole
PCT Legal Examiner
PCT Legal Office

NNH/RC:hn



Nguyễn Ngọc-Hồ
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

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